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Crl.O.P.No.24744 of 2022

A.D.JAGADISH CHANDIRA,J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 10, 9(m) of Protection of Child from Sexual Offences Act, 294(b) and 506 (i) IPC in Crime No.17 of 2021, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant married the petitioner 13 years ago and the petitioner was working as Physical Education Teacher at Vellammal Matriculation School at Mugappair. On 09.07.2021, around 3 pm when the petitioner's wife was watching TV along with their children, her husband had fallen on her daughter in an inebriated condition and touched her inappropriately in the breast. When the defacto complainant had questioned him, he abused the defacto complainant and their children with filthy language. Based on the complaint, a case was registered under Sections 10, 9(m) of Protection of Child from Sexual Offences Act, 294(b) and 506 (i) under IPC. Hence, the case.

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3. The learned counsel for the petitioner would submit that the defacto complainant is none other than the wife of the petitioner and there existed a matrimonial dispute between them. He would further submit that the marriage between the petitioner and the defacto complainant was solemnised 13 years ago, subsequently, the petitioner's wife developed illicit intimacy with one Mangadu Deepan. When the petitioner questioned the same, she along with the said Deepan had abused and attacked the petitioner. In respect of which a complaint was made by the petitioner enquiry was conducted in CSR No.17 of 2021 dated 10.07.2021 before V-3, J.J. Nagar Police Station. The petitioner has also filed a H.M.O.P in No.554 of 2021 on the file of the Poonamalle Court. Only as a counter blast, a false complaint has been given by the defacto complainant by implicating the petitioner's daughter also in the complaint. The learned counsel for the petitioner would further submit that even as per the complaint, the defacto complainant had stated that the petitioner was in inebriated condition that he had fallen under the influence of liquor and that the petitioner had no intent to cause any offence on his own daughter/ child. Thereby, he seeks anticipatory bail.

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4. The learned Government Advocate (Crl. Side) would submit that the petitioner is the husband of the defacto complainant and he was in an inebriated condition, misbehaved with his daughter and has also abused the defacto complainant and her children with filthy language. However, he opposed to grant anticipatory bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) and perused the materials available on record including the C.S.R. receipt in CSR No.17 of 2021.

6. Taking into consideration of the facts and circumstances of the case, this Court is inclined to grant anticipatory bail with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned **Mahila Court Exclusive Trial under POCSO Act, Chennai** on

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condition that the petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two (2) weeks and thereafter as and when required.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

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[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].**

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

13.10.2022

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